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**SUPREME COURT. U. S. No. 385**

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IN THE  
**Supreme Court of the United States**

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**OCTOBER TERM, 1957**

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**THE PEOPLES CHURCH OF SAN FERNANDO VALLEY, INC.,**

*Petitioner*  
**v.**

**COUNTY OF LOS ANGELES, CALIFORNIA; CITY OF LOS  
ANGELES, CALIFORNIA; H. L. BYRAM, COUNTY TAX  
COLLECTOR,**

*Respondents*

**On Writ of Certiorari to the Supreme Court of the State  
of California**

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**Motion for Leave to File and Brief of Philadelphia  
Yearly Meeting of the Religious Society of Friends,  
American Friends Service Committee, Inc., Amici  
Curiae, in Support of Petitioner.**

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On Writ of Certiorari to the Supreme Court of the State  
of California

**Motion for Leave to File and Brief of Philadelphia  
Yearly Meeting of the Religious Society of Friends,  
American Friends Service Committee, Inc., Amici  
Curiae, in Support of Petitioner.**

**I.**

**MOTION FOR LEAVE TO FILE THE WITHIN  
BRIEF**

**TO THE SUPREME COURT OF THE UNITED  
STATES:**

The motion of Philadelphia Yearly Meeting of the  
Religious Society of Friends and the American Friends  
Service Committee, Inc., respectfully represents:

(1) Philadelphia Yearly Meeting of the Religious Society of Friends is an organization of ninety (90) constituent Quaker Meetings in a four-state area surrounding Philadelphia. Philadelphia Yearly Meeting believes that it must express the traditional opposition of the Religious Society of Friends to oaths and declarations such as that which California exacts, and that it must express this opposition now, before Friends groups in other states are confronted with similar declarations;

(2) The American Friends Service Committee, Inc., is a corporation chartered to engage in religious, charitable, social, philanthropic and relief work in the United States and in foreign countries on behalf of the several branches and divisions of the Religious Society of Friends in America, and also to promote the general objects and purposes of the several branches and divisions of the Religious Society of Friends in America. The American Friends Service Committee, Inc., which has consistently sought to aid and comfort the afflicted whether legally friend or enemy, believes that declarations such as that required by California may seriously hamper and curtail many of the activities to which it is committed in California and elsewhere both by its Charter and by the convictions of its membership and personnel. It further believes that the existence and spread of declarations similar to the one here involved may injuriously affect and seriously hamper the carrying out of the objects and purposes of the several branches and divisions of the Religious Society of Friends in America;

(3) Amici Curiae sought the consent of Petitioner and Respondent to the filing of the within brief.

Petitioner gave consent but Respondent refused; hence the present motion.

(4) Applicants on information and belief aver that the oral argument and briefs of the parties to the case will not adequately present the argument to be made herein, which is directed solely to the contention that the California loyalty declaration offends that freedom of conscience which is asserted and professed by the Religious Society of Friends.

WHEREFORE, applicants earnestly request the Court to grant this motion for leave to file the within brief.

By

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HAROLD EVANS

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## II.

## STATEMENT OF INTEREST

The interests of *amici curiae* have been set forth in the Motion for Leave to File the Within Brief.

## III.

## ARGUMENT

THE CALIFORNIA DECLARATION ABRIDGES THE FREEDOM TO SEEK THE TRUTH AND THE FREEDOM TO ACT UPON THE TRUTH AS IT IS MADE KNOWN TO THE SEEKER.

It is the belief of the Religious Society of Friends that truth is continually revealed to every individual human being. This revelation is the result of direct communication between God and man. Rufus Jones, leading Quaker teacher and religious philosopher, states the Quaker belief this way:

"If God ever spoke He is still speaking. If He has ever been in mutual and reciprocal communication with the persons He has made, He is still a communicating God, as eager as ever to have listening and receptive souls. If there is something of His image and superscription in our inmost structure and being, we ought to expect a continuous revelation of His will and purpose through the ages. . . . He is the *Great I Am*, not a *Great He Was*."<sup>1</sup>

To require a declaration of disbelief in certain doctrines is to break in upon the continuing revelation of

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<sup>1</sup> Jones, *A Call to What Is Vital* (1948), p. 65.



truth as it develops from the direct relation between God and man. It is to enforce a surrender of the freedom to seek the truth unbound by moral or legal commitment to believe or to disbelieve.

This area of freedom has been foreclosed to governmental intrusion, federal or state, by the First Amendment to the Constitution, for:

"With man's relations to his Maker and the obligations he may think they impose, and the manner in which an expression shall be made by him of his belief on those subjects, no interference can be permitted. . . ."<sup>2</sup>

And again:

"... [Under the Constitution] Man's relation to his God was made no concern of the state."<sup>3</sup>

Since truth can never be finally and fully determined in this world, the Society of Friends has sought to avoid partisan commitments to currently favored doctrine. This position was stated in a report to the Friends World Conference of 1937:

"One of the most important missions of a Society like ours is its *prophetic service*. We maintain that we must not merely be *identified* with a party, or a division, or a given system, or a prevailing theory. We must be free and broad-visioned enough to see around and beyond the partial one-sided aspect of the issue for which the 'party' stands and to seize the ethical and spiritual significance of the whole situation before

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<sup>2</sup> *United States v. Ballard*, 322 U. S. 78, 87 (1944).

<sup>3</sup> *Ibid.*



us, and deal with it from above the storm and controversy and propaganda of the moment."<sup>4</sup>

To execute a disavowal of belief is to be morally and legally identified with a "given system" or a "prevailing theory" which may not turn out to be what is needed in a fast-changing world. Many Friends believe that what is needed now are proposals which will foster reconciliation and good will between all peoples everywhere, not professions of hatred for an enemy state. A declaration of non-advocacy of the overthrow of government by unlawful means may not appear to require narrow partisanship, but the history of the Society of Friends shows that too often the espousal of unpopular ideas is equated in the minds of many with subversion. A notable example is the reaction that was provoked by the support of Friends for the abolition of slavery.<sup>5</sup>

The declaration required by California goes beyond nonadvocacy of violent overthrow. It includes nonadvocacy of overthrow by "other unlawful means," and nonadvocacy of the support of a foreign government in the event of hostilities. The range of non-treasonable belief and action which might be foreclosed by such a declaration is beyond our power to foresee. What assurance can be given that it would not prohibit material or moral aid to the victims of war or other catastrophe in enemy lands, if the temper of the times in America were to run against such aid? Acting through organizations such as *amici curiae*, Friends have consistently sought to provide food,

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<sup>4</sup> Report of Commission I to Friends World Conference, 1937, reprinted in *Faith and Practice of the Philadelphia Yearly Meeting of the Religious Society of Friends* (1955), pp. 112-113.

<sup>5</sup> See 2 Stokes, *Church and State in the United States* (1950), pp. 176-177.

clothing and shelter to human beings who need them without regard to nationality or political belief. As circumstances have permitted, *amici curiae* have been eager to help inhabitants of North Korea during the hostilities in Korea, residents of Hiroshima following the bombing by American planes in Japan, and Japanese-Americans who were moved from their homes into relocation centers in America. What assurance can be given that a declaration of nonsupport of a foreign government would not prohibit responsible criticism by religious groups of governmental policies in times of crisis? Such groups can contribute significantly to the formulation of national policy on such supremely important matters as disarmament and the testing of nuclear weapons if they are free to do so. They will be free to do so only if they are free to seek the truth and to act upon it. California will grant a tax exemption only upon surrender of these freedoms.

THE CALIFORNIA DECLARATION REQUIRES AN ACCOUNTING  
TO THE STATE OF BELIEFS FOR WHICH MAN IS AC-  
COUNTABLE ONLY TO GOD.

The book of *Faith and Practice* of Philadelphia Yearly Meeting of the Religious Society of Friends states a fundamental tenet of Quakerism as follows:

We affirm the supremacy of conscience. We recognize the privileges and obligations of citizenship; but we reject as false that philosophy which sets the state above the moral law and demands from the individual unquestioning obedience to every state command. On the contrary, we assert that every individual, while owing loyalty to the state, owes a more binding loyalty

to a higher authority—the authority of God and conscience.”<sup>6</sup>

A similar expression of the allegiance owed respectively by the individual to his State and to his God appears in *Girouard v. United States*:

“The struggle for religious liberty has through the centuries been an effort to accommodate the demands of the State to the conscience of the individual. The victory for freedom of thought recorded in our Bill of Rights recognizes that in the domain of conscience there is a moral power higher than the State. Throughout the ages, men have suffered death rather than subordinate their allegiance to God to the authority of the State. Freedom of religion guaranteed by the First Amendment is the product of that struggle.”<sup>7</sup>

This statement by the Court expresses the position not only of the Religious Society of Friends but of many major religions based upon the dignity and worth of the individual.

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<sup>6</sup> *Faith and Practice*, *supra*, pp. 38-39. This modern statement is not significantly different from the one Friends adopted in England in 1675:

“Since God hath assumed to himself the power and dominion of the conscience, who alone can rightly instruct and govern it, therefore it is not lawful for any whatsoever, by virtue of any authority or principality they bear in the government of this world, to force the consciences of others; and therefore all killing, banishing, fining, imprisoning, and other such things, which men are afflicted with, for the alone exercise of their conscience or difference in worship or opinion, proceedeth from the spirit of Cain, the murderer, and is contrary to the truth.

Quoted in 1 Stokes, *supra*, p. 114.

<sup>7</sup> 328 U. S. 61, 68 (1946).

If the State can require a disavowal of belief it can also require a disclosure of belief. If it can require a disclosure of belief it is in a position to prescribe belief. *Amici curiae* believe that the State can do none of these things, and in this belief are supported by the following statements from the opinion of this Court in *West Virginia v. Barnette*:

"To sustain the compulsory flag salute we [would be required] to say that a Bill of Rights which guards the individual's right to speak his own mind, left it open to public authorities to compel him to utter what is not in his mind. . . . If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein. If there are any circumstances which permit an exception, they do not now occur to us."<sup>8</sup>

The Religious Society of Friends came into being at a time when the Stuart monarchs sought to prescribe for Englishmen what should be orthodox in religion, and sought to enforce this orthodoxy through the imposition of a succession of oaths. Leaders of the new movement, including William Penn, refused repeatedly to take such oaths, and struggled continuously against their application. For this obstinacy literally thousands of Friends were put into jail.<sup>9</sup> In part their steadfast opposition was founded upon

<sup>8</sup> 319 U. S. 624, 634, 642 (1943).

<sup>9</sup> In the year 1680 there was presented to King Charles II and to Parliament a petition entitled "The Case of the People Called Quakers", in which it now appears to have been accurately stated

Biblical injunctions against swearing in the name of God. To that extent these historic objections to oaths, including of course the judicial oath, do not appear applicable to the declaration required by California. In part, however, the seventeenth-century test oath was fought because it was an integral part of the State's machinery for enforcing conformity to the State's religion. When an opportunity to found a colony in America was presented, William Penn and other Quaker leaders were unswerving in their determination that oaths which tested religious belief were to be left behind. Penn's "Great Law" which was adopted by the province of Pennsylvania in 1682 declared that:

" . . . no person . . . shall in any case be molested or prejudiced for his, or her Conscientious persuasion or practice." <sup>10</sup>

The principle of absolute liberty of conscience recurs in all of the various Frames and Charters prepared by Penn for his province, and is repeated in the Pennsylvania Constitution of 1776. Penn's belief in religious freedom, and the successful application of his belief to the Quakers' Holy Experiment in government, were well known to the

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that during the twenty-year period since the Restoration a total of 10,778 persons had died in prison, been imprisoned, excommunicated, or sentenced to banishment for refusal to obey the penal laws then in force designed to compel religious conformity. This era of persecution is described in Comfort, *William Penn and Our Liberties* (1947) Chapter II.

Among the oaths imposed during the period was one aimed specifically at Friends, the Quaker Act of 1662 (15 Car. II, c. 1). This Act penalized, inter alia, advocacy of the belief that the taking of an oath was unlawful and contrary to the word of God.

<sup>10</sup> Reprinted in 1 Stokes, *supra*, p. 206.

meh chiefly responsible for framing the Bill of Rights. James Madison wrote:

"Pennsylvania may well be proud of such a founder and lawgiver as William Penn, and an obligation be felt by her enlightened citizens to cherish by commemorations of his exalted philanthropy and his beneficent institutions, their expanding influence in the cause of civil and religious liberty."<sup>11</sup>

As the history of the colonial experience makes very clear, the constitutional guarantee of religious freedom was intended to protect the inner belief as well as the outward manifestation. An enforced token or pledge in matters either spiritual or temporal can accordingly not be countenanced. In the words of Chief Justice Stone, dissenting in *Minersville School District v. Gobitis*:

"The very essence of the liberty which [the Bill of Rights guarantees] is the freedom of the individual from compulsion as to what he shall think and what he shall say, at least where the compulsion is to bear false witness to his religion. If these guaranties are to have any meaning they must, I think, be deemed to withhold from the state any authority to compel belief or the expression of it where that expression violates religious convictions, whatever may be the legislative view of the desirability of such compulsion."<sup>12</sup>

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<sup>11</sup> "Poulson's American Daily Advertiser" for October 28, 1826, quoted at the beginning of Comfort, *supra*. In the same issue appeared a statement in similar vein by Thomas Jefferson. It is clear from correspondence that at least as early as 1774 James Madison was familiar with the conditions of religious freedom which obtained in Pennsylvania. 1 Stokes, *supra*, p. 340.

<sup>12</sup> 310 U. S. 586, 604 (1940). The *Gobitis* case was overruled in *West Virginia v. Barnette*, 319 U. S. 624 (1943).



It was the belief of Justice Holmes, dissenting in *United States v. Schwimmer*, that the same principles should govern the admission of aliens to citizenship:

"... but if there is any principle of the Constitution that more imperatively calls for attachment than any other it is the principle of free thought—not free thought for those who agree with us but freedom for the thought we hate. . . . And recurring to the opinion that bars this applicant's way, I would suggest that the Quakers have done their share to make the country what it is, that many citizens agree with the applicant's belief and that I had not supposed hitherto that we regretted our inability to expel them because they believe more than some of us do in the teachings of the Sermon on the Mount."<sup>13</sup>

In its letter accompanying the tax which it paid under protest to the Tax Collector of Los Angeles County, Orange Grove Monthly Meeting of Friends in referring to the California statute which imposes the declaration stated:

"We regard this law as a violation of religious freedom of conscience, for our first loyalty is to God, only secondarily to man and the state."

In imposing its nonadvocacy declaration California assumes an accountability that no man owes to any government.

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<sup>13</sup> 279 U. S. 644, 654-655 (1929). The *Schwimmer* case was overruled in *Girouard v. United States*, 328 U. S. 61 (1946).



## THE CALIFORNIA DECLARATION DOES VIOLENCE TO THE MINDS OF MEN WHOSE LOYALTY CANNOT BE COERCED.

Many men are not offended by enforced declarations of loyalty. They may in fact welcome every opportunity to profess a loyalty in which they feel secure. For others it is not so easy. In this second group are a great many who could not perform a treasonable or a violent act. Their loyalty cannot reasonably be questioned; it is based upon inner and personal conviction. They are not loyal because they have been told that they ought to be, nor do they believe that their loyalty will be increased because the state requires them to declare it and withholds tax exemption if they will not do so. On the contrary, in their view a coerced loyalty cannot be a substitute for a loyalty freely given, nor can it produce loyalty where loyalty does not already exist. With William Penn, they believe that "force never yet made either a good Christian or a good subject."<sup>14</sup> If loyalty is love of country, Shakespeare's lines are appropriate:

"That love is merchandized whose rich esteeming  
The owner's tongue doth publish every where."<sup>15</sup>

There does not appear to be any reason for assuming that men who are sensitive about the circumstances under which they pledge or manifest their loyalty are on that account less loyal than those who gladly seize every chance to proclaim it. There may in fact be some reason to believe that the loyalty of men who prize it so highly that it cannot be exacted from them is a loyalty peculiarly worth having. Spinoza said:

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<sup>14</sup> William Penn, *The Great Case of Liberty of Conscience* (1670), reprinted in Tolles and Alderfer, eds., *The Witness of William Penn* (1957), p. 81.

<sup>15</sup> The Sonnets of William Shakespeare, No. 102.

"Laws directed against opinions affect the generous-minded rather than the wicked, and are adapted less for coercing criminals than for irritating the upright. . . . What greater misfortune for a state than that honourable men should be [treated] like criminals . . . ? <sup>16</sup>

If men of this type are in a minority, as they seem to be, this is an instance where government can well afford to respect, if not to honor, a minority belief. Especially is this true when it has yet to be demonstrated that the declaration required by California makes any contribution to public security or welfare.

One of the oaths required of Friends in seventeenth-century England involved a disavowal of belief in the Catholic doctrines of transubstantiation. Friends did not believe in these doctrines, but in matters of belief they would not be coerced. So it is with enforced disavowals of advocacy of force and violence. The Religious Society of Friends has from its beginnings held and maintained a testimony against the use of violence in man's relations with his fellow men. Differences arising between men or between nations of men cannot be settled in a lasting way on any basis other than mutual good will and love. To interpret a Quaker Meeting's refusal to execute a declaration of non-violent intent as a desire to engage in violence is to ignore or misread three hundred years of Quaker belief and practice. The violence in the requirement of such a declaration is the violence done to the minds of men whose loyalty cannot be coerced.

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<sup>16</sup> Spinoza, *Theologico-Political Treatise*, c. 20, cited in Chafee, *The Blessings of Liberty* (1956), p. 250.

## CONCLUSION

If the State can discriminate in regard to taxes among religious groups on the basis of what they are willing to declare as their views in an area where religion and politics meet, the State is itself declaring what is and what is not patriotic religious orthodoxy, and freedom of conscience has ceased to exist. To us it appears that the California declaration requires Quakers to say now how they will in the future interpret the Sermon on the Mount.

It is respectfully submitted that the decision of the California Supreme Court should be reversed.

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